



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 25 2004

OFFICE OF
CIVIL RIGHTS

RETURN RECEIPT REQUESTED

Certified Mail No. 7002 2410 0004 4323 9962

In Reply Refer to:

EPA File No. 06R-02-R6

Maria M. Laverde, Esq.
Southern New Mexico Legal Services, Inc
300 N. Downtown Mall
Las Cruces, New Mexico 88001

Re: ACCEPTANCE OF ADMINISTRATIVE COMPLAINT

Dear Ms. Laverde:

This is to notify Southern New Mexico Legal Services that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is accepting for investigation an administrative complaint dated July 23, 2002, that Southern New Mexico Legal Services filed with OCR on July 29, 2002, on behalf of the Chaparral Community Health Council. The complaint was filed against the New Mexico Environment Department (NMED) and concerned a permit for a landfill that NMED issued to Rhino Environmental Services, Inc., in January 2002.

Under Title VI, a recipient of Federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Title VI regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged discriminatory act. 40 C.F.R. § 7.120. Fourth, because EPA Title VI regulations only apply to applicants and recipients of EPA assistance, the complainant must be against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

The complaint meets the jurisdictional requirements in EPA's Title VI implementation regulations. First, the complaint is in writing. OCR received a written complaint dated July 23, 2002, from the complainants. Second, the complaint alleges discrimination based on race, color, or national origin in violation of Title VI. Third, the complaint was filed on July 29, 2002, within 180 days of NMED issuing the permit to Rhino Environmental Services for a landfill on January 30, 2002. And fourth, the complaint has been filed against NMED, which receives financial assistance from EPA.

Therefore, OCR is accepting the following allegations for investigation:

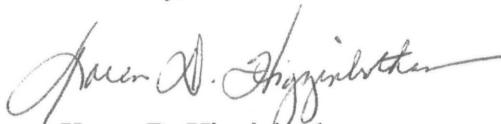
(1) NMED's permitting of the Rhino landfill will have an adverse disparate impact on Chaparral Latino residents (e.g., subjecting their community to blowing trash and dumping of trash) and will impose a disproportionate share of the risk of environmental contamination (e.g., ground water contamination) on the Latino residents in violation of EPA's implementing regulations.

(2) NMED's failure to prepare a State Solid Waste Plan, as required by the New Mexico Solid Waste Act, has resulted in a disproportionate impact on the Chaparral Latino residents by placing them at risk of groundwater contamination from the Rhino landfill.

Pursuant to EPA's Title VI regulations, NMED may either respond to the complaint in writing within 30 calendar days of receiving this notice, or wait until OCR notifies NMED of any preliminary findings of noncompliance. Additionally, EPA's Title VI regulations provide that OCR must attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR will discuss, at any point during the process, offers to informally resolve the complaint, and will, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders.

If you have any questions, please contact Mike Mattheisen in OCR by telephone at 202-343-9678, or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave., NW, Washington, D.C., 20460-1000.

Sincerely,



Karen D. Higginbotham
Director

cc: Ron Curry, Secretary
New Mexico Environment Department
P.O. Box 26110
1190 St. Francis Drive, N4050
Santa Fe, New Mexico 87502-6110

Stephen G. Pressman, Associate General Counsel
Civil Rights Law Office (MC 2311)

Barry Hill, Director
Office of Environmental Justice (MC 2201A)

Sherry Brown-Wilson, Title VI Coordinator
EPA Region 6